

F.S. No. 263/06
Presented by Shri. A. P. Sharma
dated 17/11/06

① SINGLE BENCH
c. of. 100/-
③

IN THE HIGH COURT OF CHHATTISGARH
AT BILASPUR

W.P. No. 257 /2006

Petitioner

: Yakub Sarif,
S/o Late Ebrahim Sarif
aged about 63 years,
R/o Kelabadi, Distt. Durg (C.G.)

VERSUS

Respondents

- : 1. State Transport Appellate
Tribunal Raipur (C.G.)
2. Regional Transport Authority
Chhattisgarh, Raipur (C.G.)
3. Secretary, Regional Transport
Authority, Chhattisgarh, Raipur
4. Shri Raju Singh Rajpurohit
S/o Shri K. S. Rajpurohit
R/o Mahoba Bazar, Raipur (C.G.)

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WRIT PETITION UNDER ARTICLES 226/227 OF THE
CONSTITUTION OF INDIA.

(93)

A.F.R.

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH: HON'BLE SHRI S.R. NAYAK, CJ

Writ Petition NO.257 OF 2006

PETITIONER

Yakub Sarif,
S/o Late Ebrahim Sarif
Aged about 63 years.
R/o Kelabadi, Distt. Durg (C.G.)

VERSUS

RESPONDENTS

1. State Transport Appellate Tribunal Raipur (C.G.)
2. Regional Transport Authority Chhattisgarh, Raipur (C.G.)
3. Secretary, Regional Transport Authority, Chhattisgarh, Raipur
4. Shri Raju Singh Rajpurohit
S/o Shri K.S. Rajpurohit
R/o Mahoba Bazar, Raipur (C.G.)

Present: Shri A.R. Shrivastava, learned counsel for the petitioner.
Shri Yashwant Singh, learned G.A. and Shri Sumesh Bajaj, learned Dy. G.A. for the respondents No. 1 to 3.
Shri Ajay Shrivastava and Shri Shivesh Singh, learned Counsel for respondent No. 4.

ORAL ORDER

(Passed on 1st February 2006)

The facts of this case are simple and straightforward. The petitioner made an application on 03-03-2004 to the 2nd respondent for grant of regular permit on the route Durg to Raipur. The 4th respondent herein too made an application on 17-05-2004 for grant of regular permit on the same route. The 2nd respondent by his order dated 06-07-2004 granted the permit in favour of the 4th respondent. The petitioner being aggrieved by the above order of the 2nd respondent has filed this writ petition.

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(2) On service of notice, respondents 2 and 3 have filed their return. In the return, it is stated that the application filed by the petitioner was taken-up for consideration on 16-03-2004 and after consideration, his application was rejected, but, the file where the application of the petitioner was considered and decision taken, is not produced before the Court. It is stated by the respondents 2 and 3 that the said file was lost / misplaced. Not only the concerned file is not produced before the Court, but, it is an admitted fact that the 2nd respondent did not even communicate his so-called order dated 16-03-2004 to the petitioner till date. It is the specific case of the petitioner that his application is not yet considered. The fact that the petitioner had made an application on 03-03-2004 for grant of regular permit on the aforementioned route is not disputed before me. It is well settled that if a statutory authority receives more than one application for parting largesse of the State or for grant of permit, licence etc., equitable principles which flow from Article 14 postulates would mandate such statutory authority to club all such rival applications, consider them together and dispose of them by a common order in order to ensure fairness in consideration and also in order to appreciate relative merits of the applicants together and to part with largesse of the State to a most suitable person amongst the applicants to subserve the public interest. Since the petitioner made application well before the 4th respondent made application for grant of regular permit on the same route, in terms of priority as well as seniority, the petitioner's application should have been considered and decided earlier or atleast it should have been clubbed with the application of the 4th respondent. The self-serving statement of respondents 2 and 3 to

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suit their convenience and to raise an excuse to cover up an apparent illegal act on their part does not inspire confidence of the Court. 'Justice should be done and at the same time that is seen to have been done' is a cardinal rule of principles of natural justice. In that view of the matter, I think, the ends of justice would be met by directing the 2nd respondent to club the application of the petitioner with that of 4th respondent, consider them together and pass appropriate common order on merit, strictly in accordance with law after affording reasonable opportunity to both the parties and I think, that is the only fair way of doing justice in a matter like this.

(3) In the result, I allow the writ petition, quash the order of the 2nd respondent dated 06-07-2004 granting regular permit in favour of the 4th respondent on the route Durg to Raipur. A direction shall issue to the 2nd respondent to club the application of the petitioner dated 03-03-2004 with that of the 4th respondent dated 17-05-2004, consider them together and pass appropriate orders, in accordance with law after giving them opportunity of being heard, within a period of 15 days from the date of receipt of a copy of this order. No costs.

Sd/-
The Chief Justice